

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BLUE SKY SEWER SERVICE CO., INC.)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 90-069
)	
KENTUCKY-AMERICAN WATER COMPANY)	
)	
DEFENDANT)	

O R D E R

This matter arises out of a complaint by Blue Sky Sewer Service Company, Inc. ("Blue Sky Sewer") filed on March 21, 1990 alleging that Kentucky-American Water Company ("Kentucky-American") had refused to furnish Blue Sky Sewer with the water usage records for all of Blue Sky Sewer's customers. In its answer, filed April 9, 1990, Kentucky-American admits its refusal to furnish the information that Blue Sky Sewer had requested but states affirmatively that it would provide the information if Blue Sky Sewer secured written authorization for its release from its customers. A hearing on the complaint was held before the Commission on August 8, 1990 at which both parties appeared and were represented by counsel. At the hearing, the parties agreed to file a written stipulation of the facts in lieu of testimony and submit the matter on the record.

FINDINGS OF FACT

Blue Sky Sewer is a Kentucky corporation which owns and operates a facility for the treatment of sewage for the public for compensation. Kentucky-American is a Kentucky corporation that owns, controls, operates, or manages a facility used in connection with the diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public for compensation.

Blue Sky Sewer serves customers located on Blue Sky Parkway, United Court, Cutters Hill Court, Kingpost Court, Swanton Drive, and businesses located on Kentucky Highway 418 in Fayette County. These customers include Econolodge, Sheridan Inn, Waffle House, Pure Gold, and Chevron. Kentucky-American provides water services to the customers of Blue Sky Sewer.

Under the terms of its filed rate schedule and its standard service agreement, Blue Sky Sewer's rates are based on the quantity of water consumed by its customers. It is for that reason that Blue Sky Sewer has requested Kentucky-American to provide it with periodic water consumption data for these customers. Blue Sky Sewer requires the information in order to adequately and accurately bill its customers for sewer charges.

Kentucky-American maintains records on the water usage of Blue Sky Sewer's customers as a normal course of providing utility service. It has furnished information on its customers water usage to the Lexington-Fayette Urban County Government and to private sewer utilities to enable those entities to bill for sewer services provided on the same basis as those provided by Blue Sky Sewer. Kentucky-American has offered to provide the same

information to Blue Sky Sewer if written authorization from the affected customers is provided. Blue Sky Sewer, however, has not been able to secure the authorization from its customers.

CONCLUSIONS OF LAW

Blue Sky Sewer and Kentucky-American are public utilities as defined in KRS 278.010(3) and are thereby subject to the jurisdiction of this Commission pursuant to the provisions of KRS 278.040. Furnishing information on a customer's water usage by one utility for use by another utility to adequately and accurately bill its customers for sewer charges is a utility practice subject to Commission jurisdiction. Therefore, under its authority, the Commission can require Kentucky-American to furnish Blue Sky Sewer with the information requested.

KRS 278.160(2) requires a utility to charge and collect for any service rendered that level of compensation prescribed in its filed rate schedule. Without information on its customers' water usage, Blue Sky Sewer is unable to comply with this requirement. Therefore, to enable Blue Sky Sewer to comply with KRS 278.160(2), Kentucky-American should be required to provide the water usage information Blue Sky Sewer has requested on its current customers. Before this information is released, customers of Blue Sky Sewer should be allowed to file any objections they may have, stating the reasons therefor, for the Commission's consideration.

To prevent uncertainty over the release of this information in the future, Blue Sky Sewer should be required to amend its filed rate schedule to expressly state that, for billing purposes, a customer's request for sewer service constitutes that customer's

full and knowing consent to the release of information regarding his water usage by his water supplier to Blue Sky Sewer. In addition, Blue Sky Sewer should include in its application for service, or in its application for a transfer of the name of any of its accounts, a release to be signed by its customers authorizing their water supplier to provide water consumption data to Blue Sky Sewer. A copy of all such releases should be transmitted by Blue Sky Sewer to the water supplier.

Now, therefore, based upon the foregoing Findings of Facts and Conclusions of Law, and upon the entire record,

IT IS HEREBY ORDERED that:

1. Blue Sky Sewer shall serve, within 10 days of the date of this Order, the following notice by certified mail upon each of its customers:

DATE _____

Upon reviewing Blue Sky Sewer Service Company, Inc.'s filed tariff, the Public Service Commission of Kentucky has found in Case No. 90-069 that in order for Blue Sky Sewer Service Company, Inc. to adequately and fairly bill its customers, in accordance with its filed rate schedule, Blue Sky Sewer Service Company, Inc. requires information on each customers water usage that is maintained by its water supplier. Accordingly, the Public Service Commission has ordered Kentucky-American Water Company to release to Blue Sky Sewer Service Company, Inc. the amount of your monthly water usage.

If you object to the release of this information, you may file a written objection with the Public Service Commission. Such objection must be in writing, state your name, and the reasons you object to the release of the information, and it should be sent to Mr. Lee M. MacCracken, Executive Director, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602. Objections must be filed within 10 days of the date of this notice, with copies to the following:

(a) Blue Sky Sewer Service Company, Inc.
Box 24255
Lexington, Kentucky 40524

(b) Kentucky-American Water Company
2300 Richmond Road
Lexington, Kentucky 40502
Attention: C. D. Bush

If no objections are filed within the prescribed period, Kentucky-American will release the information in accordance with the Commission's ruling.

2. If no objections are filed by customers of Blue Sky Sewer in accordance with the Order, Kentucky-American shall provide to Blue Sky Sewer, within 30 days from the date of this Order, water usage information for all Blue Sky Sewer customers on the same basis as that information is provided to other utilities.


3. Within 20 days from the date of this Order, Blue Sky Sewer shall amend its filed rate schedule to expressly state that receipt of sewer services by a customer constitutes full and knowing consent to the release of information about his water usage by his water supplier to Blue Sky Sewer for billing purposes.

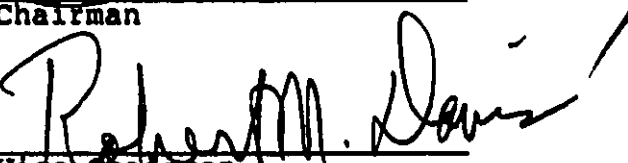
4. Blue Sky Sewer shall, hereafter, include in its application for service, or in its application for a transfer of the name of any of its accounts, a release to be signed by its customers authorizing the customer's water supplier to provide water consumption data to Blue Sky Sewer. A copy of all such releases shall be transmitted by Blue Sky Sewer to the customer's supplier.

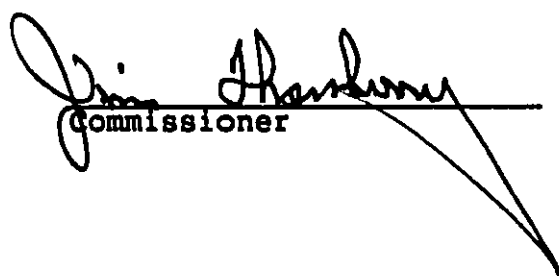
5. This matter is continued generally pending the receipt, if any, of objections from any customers of Blue Sky Sewer in accordance with this Order. If no objections are filed, as provided herein, this Order shall become final.

Done at Frankfort, Kentucky, this 4th day of December, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director